

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:97CR-23**

UNITED STATES OF AMERICA,)
)
)
)
vs.) ORDER
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)
)
AQUILIA MARCIVICCI BARNETTE,)
)
)
Defendant.)
)
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)

THIS MATTER is before the Court upon remand from the Fourth Circuit Court of Appeals for further consideration in light of Miller-El v. Dretke, 545 U.S. 231 (2005). The issue before the U.S. Supreme Court in Miller-El was whether the petitioner had shown that the prosecution had engaged in purposeful discrimination when it exercised its peremptory strikes against African American jurors. See *id.*

This Court held a limited evidentiary hearing in this matter on September 21, 2009. The transcript of that proceeding has been filed and copies provided to both parties. Each party shall have an opportunity to fully brief all issues relevant to whether Barnette has met his burden of proving that the prosecution engaged in purposeful discrimination when it exercised its peremptory strikes against five African American jurors. See *id.*

It is HEREBY ORDERED THAT:

1. Barnette shall have 30 days from the filing of this Order in which to file his brief, and
 2. The Government shall have 30 days from the filing of Barnette's brief in which

to file its own brief.

Signed: November 30, 2009



Richard L. Voorhees
United States District Judge

